UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA	)	
	)	
v.	)	**Criminal No. 2:14-cr-00083-DBH-2**
	)	
DAVID ROBINSON	)	

CONTINUED MOTION TO DISMISS

AND NOTICE TO THE COURT FOR THE UNSEALED RECORD

NOW COMES David Robinso, *Pro Se In Triformis*, speaking for Defendant, DAVID ROBINSON, and motions this court for DISMISSAL of Criminal No. 2:14-cr-00083-DBH-2 for failure of initial Due Process. The Allegations as set forth in prior **MOTION TO DISMISS** Document 50 Filed 10/30/14 are realledged and incorporated as if fully set forth herein. In additional support of these motions, counsel states as follows:

A COMPLAINT ABOUT THE IRS

1. Is the Internal Revenue Service ("IRS") an organization within the U.S. Dept. of the Treasury?

> **Answer:** No. The IRS is not an organization within the United States Department of the Treasury. The U.S. Department of the Treasury was organized by statutes now codified in Title 31 of the United States Code, abbreviated "31 U.S.C." The only mention of the IRS *anywhere* in 31 U.S.C. §§ 301 315 is an authorization for the President to appoint an Assistant General Counsel in the U.S. Department of the Treasury to be the Chief Counsel for the IRS. See 31 U.S.C. 301(f)(2).
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> At footnote 23 in the case of Chrysler Corp. v. Brown, 441 U.S. 281 (1979), the U.S. Supreme Court admitted that no organic Act for the IRS could be found, after they searched for such an Act all the way back to the Civil War, which ended in the year 1865 *A.D.* The Guarantee Clause in the U.S. Constitution guarantees the Rule of Law to all Americans (we are to be governed by Law and not by arbitrary bureaucrats). See Article IV, Section 4. Since there was no organic Act creating it, IRS is not a lawful organization.

2. If *not* an organization within the U.S. Department of the Treasury, then what exactly is the IRS?

> **Answer:** The IRS appears to be a collection agency working for foreign banks and operating out of Puerto Rico under color of the Federal Alcohol Administration ("FAA"). But the FAA was promptly declared unconstitutional inside the 50 States by the U.S. Supreme Court in the case of U.S. v. Constantine, 296 U.S. 287 (1935), because Prohibition had already been repealed.In 1998, the United States Court of Appeals for the First Circuit identified a second "Secretary of the Treasury" as a man by the name of Manual Díaz-Saldaña. See the definitions of "Secretary" and

"Secretary or his delegate" at 27 CFR 26.11 (formerly 27 CFR 250.11), and the published decision in Used Tire International, Inc. v. Manual Díaz-Saldaña, court docket number 97 2348, September 11, 1998. Both definitions mention Puerto Rico.

When all the evidence is examined objectively, IRS appears to be a money laundry, extortion racket, and conspiracy to engage in a pattern of racketeering activity, in violation of 18 U.S.C. 1951 and 1961 *et seq.* ("RICO"). Think of Puerto RICO (Racketeer Influenced and Corrupt Organizations Act); in other words, it is an organized crime syndicate operating under false and fraudulent pretenses. See also the Sherman Act and the Lanham Act.

3. By what legal authority, if any, has the IRS established offices *inside* the 50 States of the Union?

Answer: After much diligent research, several investigators have concluded that there is no known Act of Congress, nor any Executive Order, giving IRS lawful jurisdiction to operate within *any* of the 50 States of the Union.

Their presence within the 50 States appears to stem from certain Agreements on Coordination of Tax Administration ("ACTA"), which officials in those States have consummated with the Commissioner of Internal Revenue. A template for ACTA agreements can be found at the IRS Internet website and in the Supreme Law Library on the Internet.

However, those ACTA agreements are demonstrably fraudulent, for example, by expressly defining "IRS" as a lawful bureau within the U.S. Department of the Treasury. (See Answer to Question 1 above.) Moreover, those ACTA agreements also appear to violate State laws requiring competitive bidding *before* such a service contract can be awarded by a State government to any subcontractor. There is no evidence to indicate that ACTA agreements were reached after competitive bidding processes; on the contrary, the IRS is adamant about maintaining a *monopoly* syndicate.

4. Can IRS legally show "Department of the Treasury" on their outgoing mail?

Answer: No. It is obvious that such deceptive nomenclature is intended to convey the false impression that IRS is a lawful bureau or department within the U.S. Department ofthe Treasury. Federal laws prohibit the use of United States Mail for fraudulent purposes. Every piece of U.S. Mail sent from IRS with "Department of the Treasury" in the return address, is one count of mail fraud. See also 31 U.S.C. 333.

5. Does the U.S. Dept. of Justice have power of attorney to represent the IRS in federal court?

Answer: No. Although the U.S. Department of Justice ("DOJ") does have power of attorney to represent federal agencies before federal courts, the IRS is not an "agency" as that term is legally defined in the Freedom of Information Act or in the Administrative Procedures Act. The governments of all federal Territories are expressly excluded from the definition of federal "agency" by Act of Congress. See 5 U.S.C. 551(1)(C).

Since IRS is domiciled in Puerto Rico (RICO?), it is thereby excluded from the definition of federal agencies which can be represented by the DOJ. The IRS Chief Counsel, appointed by the President under authority of 31 U.S.C. 301(f)(2), can appear, or appoint a delegate to appear in federal court on behalf of IRS and IRS employees. Again, see the Answer to Question 1 above. As far as powers of attorney are concerned, the chain of command begins with Congress, flows to the President, and then to the IRS Chief Counsel, and NOT to the U.S. Department of Justice.

6. Were the so-called 14th and 16th amendments properly ratified?

Answer: No. Neither was properly ratified. In the case of People v. Boxer (December 1992), docket number #S-030016, U.S. Senator Barbara Boxer fell totally silent in the face of an Application to the California Supreme Court by the People of California, for an ORDER compelling Senator Boxer to witness the material evidence against the so-called 16th amendment.

That so called "amendment" allegedly authorized federal income taxation, even though it contains no provision expressly repealing two Constitutional Clauses mandating that direct taxes must be apportioned. The Ninth Circuit Court of Appeals and the U.S. Supreme Court have both ruled that repeals by implication are not favored. See Crawford Fitting Co. *et al.* v. J.T. Gibbons, Inc., 482 U.S. 437, 442 (1987).

The material evidence in question was summarized in AFFIDAVITs that were properly executed and filed in that case. Boxer fell totally silent, thus rendering those affidavits the "truth of the case." The so called 16th amendment has now been correctly identified as a major fraud upon the American People and the United States. Major fraud against the United States is a serious federal offense. See 18 U.S.C. 1031.

Similarly, the so-called 14th amendment was never properly ratified either. In the case of Dyett v. Turner, 439 P.2d 266, 270 (1968), the Utah Supreme Court recited numerous historical facts proving, beyond *any* shadow of a doubt, that the so called 14th amendment was likewise a major fraud upon the American People.

Those facts, in many cases, were Acts of the several State Legislatures voting for or against that proposal to amend the U.S. Constitution. The *Supreme Law Library* has a collection of references detailing this major fraud.

The U.S. Constitution requires that constitutional amendments be ratified by three-fourths of the several States. As such, their Acts are governed by the Full Faith and Credit Clause in the U.S. Constitution. See Article IV, Section 1.

Judging by the sheer amount of litigation its various sections have generated, particularly Section 1, the so called 14th amendment is one of the worst pieces of legislation ever written in American history. The phrase "subject to the jurisdiction of the United States" is properly understood to mean "subject to the *municipal* jurisdiction of Congress." (See Answer to Question 19 below.)

For this one reason alone, the Congressional Resolution proposing the so-called 14th amendment is provably vague and therefore unconstitutional. See 14 Stat. 358-359, Joint Resolution No. 48, June 16, 1866.

7. Where are the statutes that create a *specific* liability for federal income taxes?

Answer: Section 1 of the Internal Revenue Code ("IRC") contains no provisions creating a specific liability for taxes imposed by subtitle A. Aside from the statutes which apply *only* to federal government employees, pursuant to the Public Salary Tax Act, the only *other* statutes that create a specific liability for federal income taxes are those itemized in the definition of "Withholding agent" at IRC section 7701(a)(16). For example, see IRC section 1461. A separate liability statute for "employment" taxes imposed by subtitle C is found at IRC section 3403.

After a worker authorizes a payroll officer to withhold taxes, typically by completing Form W 4, the payroll officer then becomes a withholding agent who is legally and specifically liable for payment of all taxes withheld from that worker's paycheck. Until such time as those taxes are paid in full into the Treasury of the United States, the withholding agent is the only party who is legally *liable* for those taxes, not the worker. See IRC section 7809 ("Treasury of the United States").

If the worker opts instead to complete a Withholding Exemption Certificate, consistent with IRC section 3402(n), the payroll officer is not thereby authorized to withhold any federal income taxes. In this latter situation, there is Those facts, in many cases, were Acts of the several State Legislatures voting for or against that proposal to amend the U.S. Constitution. The *Supreme Law Library* has a collection of references detailing this major fraud.

8. Can a federal regulation create a specific liability, when no specific liability is created by the corresponding statute?

Answer: No. The U.S. Constitution vests all legislative power in the Congress of the United States. See Article I, Section 1. The Executive Branch of the federal government has no legislative power whatsoever. This means that agencies of the Executive Branch, and also the federal Courts in the Judicial Branch, are *prohibited* from making law.

If an Act of Congress fails to create a specific liability for any tax imposed by that Act, then there is no liability for that tax. Executive agencies have no authority to cure any such omission by using *regulations* to create a liability.

"[A]n **administrative agency may not create** a criminal offense or **any liability not sanctioned by the lawmaking authority, especially a liability for a tax** or inspection fee." See Commissioner of Internal Revenue v. Acker, 361 U.S. 87, 4 L.Ed.2d 127, 80 S.Ct. 144 (1959), and Independent Petroleum Corp. v. Fly, 141 F.2d 189 (5th Cir. 1944) as cited at 2 Am Jur 2d, p. 129, footnote 2 (1962 edition) [**bold** emphasis added]. However, this cite from American Jurisprudence has been *removed* from the 1994 edition of that legal encyclopedia.

9. The federal regulations create an income tax liability for what specific *classes* of people?

Answer: The regulations at 26 CFR 1.1-1 attempted to create a specific liability for all "citizens of the United States" and all "residents of the United States". However, those regulations correspond to IRC section 1, which does not create a specific liability for taxes imposed by subtitle A.

Therefore, these regulations are an overly broad extension of the underlying statutory authority; as such, they are unconstitutional, null and void *ab initio* (from the beginning, in Latin). The Acker case cited above held that federal regulations can not exceed the underlying statutory authority. (See Answer to Question 8 above.)

10. How many *classes* of citizens are there, and how did this number come to be?

Answer: There are two (2) classes of citizens: State Citizens and federal citizens. The first class originates in the Qualifications Clauses in the U.S. Constitution, where the term "Citizen of the United States" is used. (See 1:2:2, 1:3:3 and 2:1:5.) Notice the UPPER-CASE "C" in "Citizen". The pertinent court cases have defined the term "United States" in these Clauses to mean "States United", and the full term means "Citizen of ONE OF the States United". See People v. De La Guerra, 40 Cal. 311, 337 (1870); Judge Pablo De La Guerra signed the California Constitution of 1849, when California first joined the Union. Similar terms are found in the Diversity Clause at Article III, Section 2, Clause 1, and in the Privileges and Immunities Clause at Article IV, Section 2, Clause 1. Prior to the Civil War, there was only one (1) class of Citizens under American Law. See the holding in Pannill v. Roanoke, 252 F. 910, 914915 (1918), for definitive authority on this key point.

The second class originates in the 1866 Civil Rights Act, where the term "citizen of the United States" is used. This Act was later codified at 42 U.S.C. 1983. Notice the lower-case "c" in "citizen". The pertinent court cases have held that Congress thereby created a *municipal franchise* primarily for members of the Negro race, who were freed by President Lincoln's Emancipation Proclamation (a war measure), and later by the Thirteenth Amendment banning slavery and involuntary servitude. Compelling payment of a "tax" for which there is no liability statute is tantamount to involuntary servitude, and extortion.

Instead of using the unique term "federal citizen", as found in Black's Law Dictionary, Sixth Edition, it is now clear that the Radical Republicans who sponsored the 1866 Civil Rights Act were attempting to *confuse* these two classes of citizens. Then, they attempted to elevate this second class to constitutional status, by proposing a 14th amendment to the U.S. Constitution. As we now know, that proposal was never ratified. (See Answer to Question 6 above.)

Numerous court cases have struggled to clarify the important differences between the two classes. One of the most definitive, and dispositive cases, is Pannill v. Roanoke, 252 F. 910, 914915 (1918), which clearly held that federal citizens had no standing to sue under the Diversity Clause, because *they were not even contemplated* when Article III in the U.S. Constitution was first being drafted, circa 1787 *A.D.*

Another is *Ex parte Knowles*, 5 Cal. 300 (1855) in which the California Supreme Court ruled that there was no such thing as a "citizen of the United States" (as of the year 1855 *A.D.*). Only federal citizens have standing to invoke 42 U.S.C. 1983; whereas State Citizens do not. See Wadleigh v. Newhall, 136 F. 941 (C.C. Cal. 1905).

Many more cases can be cited to confirm the existence of two classes of citizens under American Law. These cases are thoroughly documented in the book entitled "The Federal Zone: Cracking the Code of *Internal* Revenue" by Paul Andrew Mitchell, B.A., M.S., now in its eleventh edition.

See also the pleadings in the case of USA v. Gilbertson, also in the Supreme Law Library.

11. Can one be a State Citizen, without *also* being a federal citizen?

Answer: Yes. The 1866 Civil Rights Act was *municipal law*, confined to the District of Columbia and other limited areas where Congress is the "state" government with exclusive legislative jurisdiction there. These areas are now identified as "the federal zone." (Think of it as the blue field on the American flag; the stars on the flag are the 50 States.) As such, the 1866 Civil Rights Act had no effect whatsoever upon the lawful status of State Citizens, then or now.

Several courts have already recognized our Right to be State Citizens without also becoming federal citizens. For excellent examples, see State v. Fowler, 41 La. Ann. 380, 6 S. 602 (1889) and Gardina v. Board of Registrars, 160 Ala. 155, 48 S. 788, 791 (1909). The Maine Supreme Court also clarified the issue by explaining our "Right of Election" or "freedom of choice," namely, our freedom to choose between two different forms of government. See 44 Maine 518 (1859), Hathaway, J. dissenting.

Since the Guarantee Clause does not require the federal government to guarantee a Republican Form of Government to the federal zone, Congress is free to create a *different* form of government there, and so it has. In his dissenting opinion in Downes v. Bidwell, 182 U.S. 244 at 380 (1901), Supreme Court Justice Harlan called it an absolute legislative democracy.
But, State Citizens are under no legal obligation to join or pledge any allegiance to that legislative democracy; their allegiance is to one or more of the several States of the Union (*i.e.* the white stars on the American flag, not the blue field).

12. Who was Frank Brushaber, and why was his U.S. Supreme Court case *so* important?

Answer: Frank Brushaber was the Plaintiff in the case of Brushaber v. Union Pacific Railroad Company, 240 U.S. 1 (1916), the first U.S. Supreme Court case to consider the so called 16th amendment. Brushaber identified himself as a Citizen of New York State and a resident of the Borough of Brooklyn, in the city of New York, and nobody challenged that claim.

The Union Pacific Railroad Company was a federal corporation created by Act of Congress to build a railroad through Utah (from the Union to the Pacific), at a time when Utah was a federal Territory, *i.e.* inside the federal zone.

Brushaber's attorney committed an error by arguing that the company had been chartered by the State of Utah, but Utah was not a State of the Union when Congress first created that corporation. Brushaber had purchased stock issued by the company. He then sued the company to recover taxes that Congress had imposed upon the dividends paid to its stockholders. The U.S. Supreme Court ruled against Frank Brushaber, and upheld the tax as a lawful excise, or *indirect* tax.

The most interesting result of the Court's ruling was a Treasury Decision ("T.D.") that the U.S. Department of the Treasury later issued as a direct consequence of the high Court's opinion. In T.D. 2313, the U.S. Treasury Department expressly cited the Brushaber decision, and it identified Frank Brushaber as a "nonresident alien" and the Union Pacific Railroad Company as a "domestic corporation". This Treasury Decision has never been modified or repealed.

T.D. 2313 is crucial evidence proving that the income tax provisions of the IRC are municipal law, with no territorial jurisdiction inside the 50 States of the Union. The U.S. Secretary of the Treasury who approved T.D. 2313 had no authority to extend the holding in the Brushaber case to anyone or anything not a proper Party to that court action.

Thus, there is no escaping the conclusion that Frank Brushaber was the nonresident alien to which that Treasury Decision refers. Accordingly, all State Citizens are nonresident aliens with respect to the municipal jurisdiction of Congress, *i.e.* the federal zone.

13. What is a "Withholding agent"?

Answer: (See Answer to Question 7 first.) The term "Withholding agent" is legally defined at IRC section 7701(a)(16). It is further defined by the statutes itemized in that section, *e.g.* IRC 1461 where liability for funds withheld is clearly assigned. In plain English, a "withholding agent" is a person who is responsible for withholding taxes from a worker's paycheck, and then paying those taxes into the Treasury of the United States, typically on a quarterly basis. See IRC section 7809. One cannot become a withholding agent unless workers first authorize taxes to be withheld from their paychecks. This authorization is typically done when workers opt to execute a valid W4 "Employee's Withholding Allowance Certificate." In plain English, by signing a W4 workers designate themselves as "employees" and certify they are *allowing* withholding to occur.

If workers do not execute a valid W4 form, a company's payroll officer is not authorized to withhold any federal income taxes from their paychecks. In other words, the payroll officer does not have "permission" or "power of attorney" to withhold taxes, until and unless workers authorize or "allow" that withholding by signing Form W4 knowingly, intentionally *and* voluntarily.

Pay particular attention to the term "Employee" in the title of this form. A properly executed Form W4 creates the presumption that the workers wish to be treated *as if* they were "employees" of the federal government. Obviously, for people who do not work for the federal government, such a presumption is a legal fiction, at best.

14. What is a "Withholding Exemption Certificate"?

Answer: A "Withholding Exemption Certificate" is an alternative to Form W4, authorized by IRC section 3402(n) and executed *in lieu of* Form W4. Although section 3402(n) does authorize this Certificate, the IRS has never added a corresponding form to its forms catalog (see the IRS "Printed Products Catalog").

In the absence of an official IRS form, workers can use the *language* of section 3402(n) to create their own Certificates. In simple language, the worker certifies that s/he had no federal income tax liability last year, and anticipates no federal income tax liability during the current calendar year. Because there are no liability statutes for workers in the private sector, this certification is easy to justify.

Many public and private institutions have created their own form for the Withholding Exemption Certificate, *e.g.* California Franchise Tax Board, and Johns Hopkins University in Baltimore, Maryland. This fact can be confirmed by using any search engine, *e.g.* google.com, to locate

occurrences of the term "withholding exemption certificate" on the Internet. This term occurs several times in IRC section 3402.

15. What is "tax evasion" and who might be guilty of this crime?

Answer: "Tax evasion" is the crime of evading a lawful tax. In the context of federal income taxes, this crime can only be committed by persons who have a legal liability to pay, *i.e.* the withholding agent. If one is not employed by the federal government, one is not subject to the Public Salary Tax Act unless one chooses to be treated "as if" one is a federal government "employee." This is typically done by executing a valid Form W4.

However, as discussed above, Form W4 is not mandatory for workers who are not "employed" by the federal government. Corporations chartered by the 50 States of the Union are technically "foreign" corporations with respect to the IRC; they are decidedly not the federal government, and should not be regarded "as if" they are the federal government, particularly when they were never created by any Act of Congress.

Moreover, the Indiana Supreme Court has ruled that Congress can only create a corporation in its capacity as the Legislature for the federal zone. Such corporations are the only "domestic" corporations under the pertinent federal laws. This writer's essay entitled "A Cogent Summary of Federal Jurisdictions" clarifies this important distinction between "foreign" and "domestic" corporations in simple, straightforward language.

If Congress were authorized to create *national* corporations, such a questionable authority would invade States' rights reserved to them by the Tenth Amendment, namely, the right to charter their own domestic corporations. The repeal of Prohibition left the Tenth Amendment unqualified. See the Constantine case *supra*.

For purposes of the IRC, the term "employer" refers only to federal government agencies, and an "employee" is a person who works for such an "employer".

16. Why does IRS Form 1040 not require a Notary Public to notarize a taxpayer's signature?

Answer: This question is one of the fastest ways to unravel the fraudulent nature of federal income taxes. At 28 U.S.C. section 1746, Congress authorized written verifications to be executed under penalty of perjury *without* the need for a Notary Public, *i.e.* to witness one's signature.

This statute identifies two different formats for such written verifications: (1) those executed outside the "United States" and (2) those executed inside the "United States". These two formats correspond to sections 1746(1) and 1746(2), respectively.

What is extremely revealing in this statute is the format for verifications executed "*outside* the United States". In this latter format, the statute adds the qualifying phrase "under the laws of the United States of America".

Clearly, the terms "**United States**" and "**United States of America**" are both used in this same statute. They are not one and the same. The former refers to the federal government — in the U.S.

Constitution and throughout most federal statutes. The latter refers to the 50 States that are united by, and under, the U.S. Constitution. 28 U.S.C. 1746 is the *only* federal statute in all of Title 28 of the United States Code that utilizes the term "United States of America", as such.

It is painfully if not immediately obvious, then, that verifications made under penalty of perjury are *outside* the "**United States**" (read "the federal zone") if and when they are executed *inside* the 50 States of the Union (read "the State zone").

Likewise, verifications made under penalty of perjury are *outside* the 50 States of the Union, if and when they are executed *inside* the "**United States**".

The format for signatures on Form 1040 is the one for verifications made *inside* the **United States** (federal zone) and *outside* the **United States of America** (State zone).

17. Does the term "United States" have multiple legal meanings and, if so, what are they?

Answer: Yes. The term has several meanings. The term "United States" may be used in any one of several senses. [1] It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. [2] It may designate the territory over which the sovereignty of the United States extends, or [3] it may be the collective name of the States which are united by and under the Constitution. See Hooven& Allison Co. v. Evatt, 324 U.S. 652 (1945) [**bold** emphasis, brackets and numbers added for clarity].

This is the very same definition that is found in Black's Law Dictionary, Sixth Edition. The second of these three meanings refers to the federal zone and to Congress *only* when it is legislating in its *municipal* capacity. For example, Congress is legislating in its municipal capacity whenever it creates a federal corporation, like the United States Postal Service.

It is terribly revealing of the manifold frauds discussed in these Answers, that the definition of "**United States**" has now been *removed* from the Seventh Edition of Black's Law Dictionary.

18. Is the term "income" defined in the IRC and, if not, where is it defined?

Answer: The Eighth Circuit Court of Appeals has already ruled that the term "income" is not defined *anywhere* in the IRC: "The general term 'income' is not defined in the Internal Revenue Code." U.S. v. Ballard, 535 F.2d 400, 404 (8th Circuit, 1976).

Moreover, in Mark Eisner v. Myrtle H. Macomber, 252 U.S. 189 (1920), the high Court told Congress it could not legislate any definition of "income" because that term was believed to be in the U.S. Constitution. The Eisner case was predicated on the ratification of the 16th amendment, which would have introduced the term "income" into the U.S. Constitution for the very first time (but only if that amendment had been properly ratified).

In Merchant's Loan& Trust Co. v. Smietanka, 255 U.S. 509 (1921), the high Court defined "income" to mean the profit or gain derived from corporate activities. In that instance, the tax is a lawful excise tax imposed upon the corporate privilege of limited liability, *i.e.* the liabilities of a corporation do not reach its officers, employees, directors or stockholders.

19. What is municipal law, and are the IRC's income tax provisions municipal law, or not?

Answer: Yes. The IRC's income tax provisions are municipal law. Municipal law is law that is enacted to govern the *internal* affairs of a sovereign State; in legal circles, it is also known as Private International Law. Under American Law, it has a much *wider* meaning than the ordinances enacted by the governing body of a municipality, *i.e.* city council or county board of supervisors. In fact, American legal encyclopedias define "municipal" to mean "internal", and for this reason alone, the *Internal* Revenue Code is really a *Municipal* Revenue Code.

A mountain of additional evidence has now been assembled and published in the book "The Federal Zone" to prove that the IRC's income tax provisions are municipal law.

One of the most famous pieces of evidence is a letter from a Connecticut Congresswoman, summarizing the advice of legal experts employed by the Congressional Research Service and the Legislative Counsel. Their advice confirmed that the meaning of "State" at IRC section 3121(e) is *restricted* to the named territories and possessions of D.C., Guam, Virgin Islands, American Samoa, and Puerto Rico.

In other words, the term "State" in that statute, and in all similar federal statutes, includes ONLY the places expressly named, and no more.

20. What does it mean if my State is not mentioned in *any* of the federal income tax statutes?

The general rule is that federal government powers must be expressed and enumerated. For example, the U.S. Constitution is a grant of *enumerated* powers. If a power is not enumerated in the U.S. Constitution, then Congress does not have any authority to exercise that power. This rule is tersely expressed in the Ninth Amendment, in the Bill of Rights.

If California is not mentioned in *any* of the federal income tax statutes, then those statutes have no force or effect within that State. This is also true of all 50 States.

Strictly speaking, the omission or exclusion of anyone or any thing from a federal statute can be used to infer that the omission or exclusion was *intentional* by Congress. In Latin, this is tersely stated as follows: *Inclusio unius est exclusio alterius*. In English, this phrase is literally translated: Inclusion of one thing is the exclusion of all other things [that are *not* mentioned]. This phrase can be found in any edition of Black's Law Dictionary; it is a maxim of statutory construction.

The many *different* definitions of the term "State" that are found in federal laws are intentionally written to appear *as if* they include the 50 States PLUS the other places mentioned. As the legal experts in Congress have now confirmed, this is NOT the correct way to interpret, or to construct, these statutes.

If a place is not mentioned, every American may correctly infer that the omission of that place from a federal statute was an intentional act of Congress. Whenever it wants to do so, Congress knows how to define the term "United States" to mean the 50 States of the Union. See IRC section 4612(a)(4)(A).

21. In what other ways is the IRC deliberately vague, and what are the *real* implications for the average American?

There are numerous other ways in which the IRC is deliberately vague. The absence of *any* legal definition for the term "income" is a classic deception. The IRS enforces the Code as a tax on everything that "comes in," but nothing could be further from the truth. "Income" is decidedly NOT everything that "comes in."

More importantly, the fact that this vagueness is *deliberate* is sufficient grounds for concluding that the entire Code is null, void and unconstitutional, for violating our fundamental Right to know the nature and cause of any accusation, as guaranteed by the Sixth Amendment in the Bill of Rights. Whether the vagueness is deliberate or not, *any* statute is unconstitutionally void if it is vague. If a statute is void for vagueness, the situation is the same as if it had *never* been enacted at all, and for this reason it can be ignored entirely.

22. Has Title 26 of the United States Code ("U.S.C.") *ever* been enacted into positive law, and what are the legal implications if Title 26 has *not* been enacted into positive law?

Answer: No. Another, less obvious case of deliberate deception is the statute at IRC section 7851(a)(6)(A), where it states that the provisions of subtitle F shall take effect on the day after the date of enactment of "this title". Because the term "this title" is not defined *anywhere* in 26 U.S.C., least of all in the section dedicated to definitions, one is forced to look elsewhere for its meaning, or to derive its meaning from context.

Throughout Title 28 of the United States Code — the laws which govern all the federal courts — the term "this title" clearly refers to Title 28. This fact would tend to support a conclusion that "this title", as that term is used in the IRC, refers to Title 26 of the United States Code. However, Title 26 has never been enacted into positive law, as such.

Even though all federal judges may know the secret meaning of "this title", they are men and women of UNcommon intelligence. The U.S. Supreme Court's test for vagueness is violated whenever men and women of common intelligence must necessarily *guess* at the meaning and *differ* as to the application of a vague statute. See Connally et al. v. General Construction Co., 269 U.S. 385, 391 (1926). Thus, federal judges are applying the wrong test for vagueness.

Accordingly, the provisions of subtitle F have never taken effect. ("F" is for enForcement!) This subtitle contains all of the enforcement statutes of the IRC, *e.g.* filing requirements, penalties for failure to file and tax evasion, grants of court jurisdiction over liens, levies and seizures, summons enforcement and so on.

In other words, the IRC is a big pile of Code without any teeth; as such, it can impose no legal obligations upon anyone, not even people with dentures!

23. What federal courts are authorized to prosecute income tax crimes?

This question must be addressed in view of the Answer to Question 22 above. Although it may *appear* that certain statutes in the IRC grant original jurisdiction to federal district courts, to institute prosecutions of income tax crimes, none of the statutes found in subtitle F has ever taken effect. For this reason, those statutes do not authorize the federal courts to do *anything* at all. As always,

appearances can be very deceiving. Remember the *Wizard of Oz* or the mad tea party of *Alice in Wonderland*?

On the other hand, the federal criminal Code at Title 18, U.S.C., does grant general authority to the District Courts of the United States ("DCUS") to prosecute violations of the statutes found in that Code. See 18 U.S.C. 3231.

It is very important to appreciate the fact that these courts are not the same as the United States District Courts ("USDC"). The DCUS are *constitutional* courts that originate in Article III of the U.S. Constitution. The USDC are territorial tribunals, or *legislative* courts, that originate in Article IV, Section 3, Clause 2 of the U.S. Constitution, also known as the Territory Clause.

This author's OPENING BRIEF to the Eighth Circuit on behalf of the Defendant in USA v. Gilbertson cites numerous court cases that have already clarified the all important distinction between these two classes of federal district courts. For example, in Balzac v. Porto Rico, 258 U.S. 298 at 312 (1922), the high Court held that the USDC belongs in the federal Territories. This author's OPENING BRIEF to the Ninth Circuit in Mitchell v. AOL Time Warner, Inc. *et al.* develops this theme in even greater detail; begin reading at section "7(e)".

The USDC, as such, appear to lack *any* lawful authorities to prosecute income tax crimes. The USDC are *legislative* tribunals where *summary proceedings* dominate.

For example, under the federal statute at 28 U.S.C. 1292, the U.S. Courts of Appeal have no appellate jurisdiction to review interlocutory orders issued by the USDC. Further details on this point are available in the Press Release entitled "Private Attorney General Cracks Title 28 of the United States Code" and dated November 26, 2001 *A.D.*

24. Are federal judges required to pay income taxes on their pay, and what are the *real* implications if they *do* pay taxes on their pay?

Answer: No. Federal judges who are appointed to preside on the District Courts of the United States –- the Article III *constitutional* courts –- are *immune* from any taxation of their pay, by constitutional mandate.

The fact that all federal judges are currently paying taxes on their pay is proof of undue influence by the IRS, posing as a duly authorized agency of the Executive Branch. See Evans v. Gore, 253 U.S. 245 (1920).

Even if the IRS were a lawful bureau or department within the U.S. Department of the Treasury (which they are NOT), the existence of undue influence by the Executive Branch would violate the fundamental principle of Separation of Powers. This principle, in theory, keeps the 3 branches of the federal government confined to their respective areas, and prevents any one branch from usurping the lawful powers that rightly belong to the other two branches.

The Separation of Powers principle is succinctly defined in Williams v. United States, 289 U.S. 553 (1933); however, in that decision the Supreme Court erred by defining "Party" to mean only Plaintiffs in Article III, contrary to the definition of "Party" that is found in Bouvier's Law Dictionary (1856).

The federal judiciary, contemplated by the organic U.S. Constitution, was intended to be independent and unbiased. These two qualities are the essence, or *sine qua non* of judicial power, *i.e.* without which there is nothing. Undue influence obviously violates these two qualities. See Evans v. Gore *supra*.

In Lord v. Kelley, 240 F.Supp. 167, 169 (1965), the federal judge in that case was honest enough to admit, *in his published opinion*, that federal judges routinely rule in favor of the IRS, because they fear the retaliation that might result from ruling against the IRS. There you have it, from the horse's mouth!

In front of a class of law students at the University of Arizona in January of 1997, Chief Justice William H. Rehnquist openly admitted that all federal judges are currently paying taxes on their judicial pay. This writer was an eyewitness to that statement by the Chief Justice of the U.S. Supreme Court -– the highest Court in the land.

Thus, all federal judges are now *material witnesses* to the practice of concealing the Withholding Exemption Certificate from them, when they were first hired as "employees" of the federal judiciary. As material witnesses, they are thereby disqualified from presiding on all federal income tax cases.

25. Can federal grand juries issue valid indictments against illegal tax protesters?

Answer: No. Federal grand juries cannot issue valid indictments against illegal tax protesters. Protest has *never* been illegal in America, because the First Amendment guarantees our fundamental Right to express our objections to any government actions, in written and in spoken words.

Strictly speaking, the term "illegal" cannot modify the noun "protesters" because to do so would constitute a violation of the First Amendment in the Bill of Rights, one of the most magnificent constitutional provisions ever written.

Accordingly, for the term "illegal tax protester" to survive this obvious constitutional challenge, the term "illegal" must modify the noun "tax". An illegal tax protester is, therefore, someone who is protesting an illegal tax. Such an act of protest is protected by the First Amendment, and cannot be a crime.

Protest is also recognized and honored by the Uniform Commercial Code; the phrases "under protest" and "without prejudice" are sufficient to reserve all of one's fundamental Rights at law. See U.C.C. 1-308 (UCCA 1308 in California).

By the way, the federal U.C.C. is also municipal law. See the Answer to Question 19 above, and 77 Stat. 630, P.L. 88243, December 30, 1963 (one month after President John F. Kennedy was murdered).

26. Do IRS agents ever tamper with federal grand juries, and how is this routinely done?

Answer: Yes. IRS agents routinely tamper with federal grand juries, most often by misrepresenting themselves, under oath, as lawful employees and "Special Agents" of the federal government, and by misrepresenting the provisions of subtitle F as having *any* legal force or effect. Such false

representations of fact violate Section 43(a) of the Lanham Act, uncodified at 15 U.S.C. 1125(a). (Title 15 of the United States Code has not been enacted into positive law either.)

They tamper with grand juries by acting as if "income" is everything that "comes in", when there is no such definition *anywhere* in the IRC. Such false descriptions of fact also violate Section 43(a) of the Lanham Act.
They tamper with grand juries by presenting documentary evidence which they had no authority to acquire, in the first instance, such as bank records. Bank signature cards do not constitute competent waivers of their customers' fundamental Rights to privacy, as secured by the Fourth Amendment. The high standard for waivers of fundamental Rights was established by the U.S. Supreme Court in Brady v. U.S., 397 U.S. 742, 748 (1970).

IRS agents tamper with grand juries by creating and maintaining the false and fraudulent pretenses that the IRC is not vague, or that the income tax provisions have any legal force or effect inside the 50 States of the Union, when those provisions do not.

These are all forms of perjury, as well, and possibly also misprision of perjury by omission, *i.e.* serious federal offenses.

Finally, there is ample evidence that IRS agents bribe U.S. Attorneys, federal judges, and even the Office of the President with huge kickbacks, every time a criminal indictment is issued by a federal grand jury against an illegal tax protester. (See the Answer to Question 25 above.) These kickbacks range from $25,000 to $35,000 in CASH! They also violate the Anti-Kickback Act of 1986, which penalizes the payment of kickbacks from federal government subcontractors. See 41 U.S.C. 8701 *et seq.*

As a trust domiciled in Puerto Rico, the IRS is, without a doubt, a federal government subcontractor that is subject to this Act. See 31 U.S.C. 1321(a)(62). The systematic and premeditated pattern of racketeering by IRS employees also establishes probable cause to dismantle the IRS permanently for violating the Sherman Antitrust Act, first enacted in the year 1890 *A.D.* See 26 Stat. 209 (1890) (uncodified at 15 U.S.C. 1 *et seq.*)

27. What is "The Kickback Racket," and where can I find evidence of its existence?

The evidence of this "kickback racket" was first discovered in a table of delegation orders, on a page within the Internal Revenue Manual ("IRM") — the internal policy and procedure manual for all IRS employees.

Subsequently, this writer submitted a lawful request, under the Freedom of Information Act, for a certified list of all payments that had ever been made under color of these delegation orders in the IRM. Mr. Mark L. Zolton, a tax law specialist within the Internal Revenue Service, responded on IRS letterhead, transmitted via U.S. Mail, that few records existed for these "awards" because most of them were paid in cash!

When this evidence was properly presented to a federal judge, who had been asked to enforce a federal grand jury subpoena against a small business in Arizona, he ended up obstructing all 28 pieces of U.S. Mail we had transmitted to that grand jury.

Obstruction of correspondence is a serious federal offense, and federal judges have no authority *whatsoever* to intercept U.S. Mail. See 18 U.S.C. 1702.

Obviously, the federal judge — John M. Roll — did NOT want the grand jury in that case to know *anything* about these kickbacks. They found out anyway, because of the manner in which this writer defended that small business, as its Vice President for Legal Affairs.

28. Can the IRS levy bank accounts *without* a valid court order?

Answer: No. The Fifth Amendment prohibits all deprivations of life, liberty, or property without due process of law. *Due Process of Law* is another honored and well developed feature of American constitutional practice. Put simply, it requires Notice and Hearing before *any* property can be seized by any federal government employees, agents, departments or agencies.

A levy against a bank account is a forced seizure of property, *i.e.* the funds on deposit in that account. No such seizure can occur unless due process of law has first run its course. This means notice, hearing, and deliberate adjudication of all the pertinent issues of law and fact.

Only after this process has run its proper or "due" course, can a valid court order be issued. The holding in U.S. v. O'Dell, 160 F.2d 304 (6th Cir. 1947), makes it very clear that the IRS can only levy a bank account after first obtaining a Warrant of Distraint, or court ORDER. And, of course, no court ORDER could ever be obtained unless all affected Parties had first enjoyed their "day in court."

29. Do federal income tax revenues pay for any government services and, if so, which government services are funded by federal income taxes?

Answer: No. The money trail is very difficult to follow, in this instance, because the IRS is technically a trust with a domicile in Puerto Rico. See 31 U.S.C. 1321(a)(62). As such, their records are protected by laws which guarantee the privacy of trust records within that territorial jurisdiction, provided that the trust is not also violating the Sherman Antitrust Act.

They are technically not an "agency" of the federal government, as that term is defined in the Freedom of Information Act and in the Administrative Procedures Act. The governments of the federal territories are expressly excluded from the definition of "agency" in those Acts of Congress. See 5 U.S.C. 551(1)(C). (See also the Answer to Question 5 above.)

All evidence indicates that they are a money laundry, extortion racket, and conspiracy to engage in a pattern of racketeering activity, in violation of 18 U.S.C. 1951 and 1961 *et seq*.
They appear to be laundering huge sums of money into foreign banks, mostly in Europe, and quite possibly into the Vatican. See the national policy on money laundering at 31 U.S.C. 5341.

The final report of the Grace Commission, convened under President Ronald Reagan, quietly admitted that none of the funds they collect from federal income taxes goes to pay for *any* federal government services. The Grace Commission found that those funds were being used to pay for interest on the federal debt, and income transfer payments to beneficiaries of entitlement programs like federal pension plans.

30. How can the Freedom of Information Act ("FOIA") help me to answer *other* key tax questions?

The availability of correct information about federal government operations is fundamental to maintaining the freedom of the American People. The Freedom of Information Act ("FOIA"), at 5 U.S.C. 552 *et seq.*, was intended to make government documents available with a minimal amount of effort by the People.

As long as a document is not protected by one of the reasonable exemptions itemized in the FOIA, a requester need only submit a brief letter to the agency having custody of the requested document(s). If the requested document is not produced within 20 working days (excluding weekends and federal holidays), the requester need only prepare a single appeal letter.

If the requested document is not produced within another 20 working days after the date of the appeal letter, the requester is automatically allowed to petition a District Court of the United States (Article III DCUS, *not* the Article IV USDC) — to *compel* production of the requested document, and judicially to *enjoin* the improper withholding of same. See 5 U.S.C. 552(a)(4)(B). The general rule is that statutes conferring original jurisdiction on federal district courts must be *strictly* construed. This writer has pioneered the application of the FOIA to request certified copies of statutes and regulations which should exist, but do *not* exist. A typical request anyone can make, to which the U.S. Treasury has now fallen totally silent, is for **a certified copy of all statutes which create a specific liability for taxes imposed by subtitle A of the IRC**. For example, see the FOIA request that this writer prepared for author Lynne Meredith.

Of course, by now we already know the answer to this question, before asking it. (Good lawyers always know the answers to their questions, before asking them.)

It should also be clear that such a FOIA request should not be directed to the IRS, because they are not an "agency" as that term is defined at 5 U.S.C. 551(1)(C). Address it instead to the Disclosure Officer, Disclosure Services, Room 1054-MT, U.S. Department of the Treasury, Washington 20220, District of Columbia, USA. This is the format for "foreign" addresses, as explained in USPS Publication #221.

As James Madison once wrote, "A popular government without popular information or the means of acquiring it, is but a Prologue to a Farce or a Tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own Governors, must arm themselves with the power knowledge gives."

As the Undersigned, I hereby verify, under penalty of perjury, under the laws of the **United States of America**, without the "**United States**" (the federal government), that the above statement of facts and laws is true and correct, according to the best of My knowledge, and belief, so help Me God, pursuant to 28 U.S.C. 1746(1). See the Supremacy Clause for Constitutional authority.

SINCERELY,
Dated: ____11/1/14____

Signed: ___/s/ ***david everett robinson***___
Printed: David Everett Robinson

Citizen of the Maine Republic Free State,
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"*Failure to File & Conspiracy / No. 2:14-CR-00083-DBH*"
Publisher of http://www.mainerepublicemailalert.com

CERTIFICATE OF SERVICE

This is to certify that a copy of this **Second Motion to Dismiss and Notice to the Court for the Unsealed Record** was filed with the court and notice was provided to the following Assistant United States Attorney:

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